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1B. MANILA 4488

11. (U) This message is Sensitive but Unclassified. Please handle accordingly.

12. (U) This message is in response to the action request contained in "Democracy Promotion Strategies for EAP Focus Countries" (ref a). Responses are keyed to specific informational requests contained in ref a, para 6.

Key Areas of Democratic Deficit

13. (SBU) The Republic of the Philippines is a vibrant, functioning, democracy with a free-wheeling political life and an active civil society. For 2005, the think tank Freedom House gave the Philippines a rating of 2 for political rights and 3 for civil liberties (on a scale of 1 to 7, with 7 representing the lowest level of freedom), and an overall status as a "Free" country. However, the Philippines suffers from continuing poor governance and a weak rule of law environment, which affects the quality of its democracy.

14. (SBU) The concentration of political power is one area of democratic deficit. Although the structure of the Government of the Philippines (GRP) is similar to that of the U.S., Philippine political life is more centered on the personal charisma of individual political leaders, and considerably more oligarchic. A few dozen powerful families continue to play a dominating role in politics and hold a disproportionate share of land and wealth. Approximately two-thirds of the members of the House of Representatives are from political families, meaning that they have relatives who are currently holding or once held elected positions. Half of the members of the 24-seat Senate are from political families.

15. (SBU) This concentration of power and wealth contributes to an environment where corruption, cronyism, and influence peddling are pervasive in business and government. The GRP has had limited success in tackling the Philippines' rampant crime and chronic corruption, which fall heaviest on poorer Filipinos, and limited police-prosecutor cooperation is partly to blame. Low wages paid to government employees, especially in the revenue bureaucracies, creates fertile ground for bribery and other forms of corruption. Transparency International ranked the country 102 out of 146 countries in its 2004 Corruption Perceptions Index.

16. (SBU) The rule of law remains weak. Taken together with the concentration of power and corruption and cronyism, this undermines the average citizen's confidence in the government and his or her perception of the ability to change the status quo. Persistent allegations of fraud and other cheating during elections add to citizens' cynicism about their leaders and the electoral process. The judiciary, though generally independent, is hampered by corruption and inefficiency. About 33 percent of positions for judges are unfilled because of low salaries for these positions that require significant professional qualifications. There is widespread skepticism among Filipinos that the judicial process can ensure due process and equal justice; independent observers do not believe that the judicial system adequately guarantees defendants' constitutional rights to due process and legal representation. On the other hand, prosecutors sometimes encounter protracted delays because plaintiffs can file appeals on minor procedural ruling in order to bring cases to a virtual halt. The average trial takes over three years.

17. (SBU) Weakness in the rule of law reduces the democratic space in the Philippines. The country is one of the most dangerous places in the world for journalists to work; few convictions have ever been secured for killings of journalists (see para 8). Vigilante killings of suspected criminals have been increasing in number, and the same appears to be happening in killings of activists (usually

associated with leftist groups or other political groups). The long-running New People's Army insurgency and the insurgency (plus the presence of known terrorists) in Mindanao and the Sulu Archipelago has led to a significant military presence in some areas around the country, and the atmosphere of conflict has contributed to a decline in the democratic space for activists. There is the potential -- if remote -- danger that unchecked and unlawful violence will alienate leftists who have opted to work within the established democratic political system.

18. (SBU) Strengthening democracy in the Philippines requires professional and responsible journalism that can hold both the government (national and local, civil and military) and society to account, and contribute to serious political debate. Broadcast and print media in the Philippines are active and outspoken, but often criticized for lacking rigorous journalistic ethics; newspaper reports often consist more of innuendo and sensationalism than investigative reporting, and this is at least partly responsible for attacks on some journalists. Media tend to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom are close associates of present or past high-level political officials. Many government-owned television and radio stations are also outspoken, but they often lack strict journalistic ethics. Many journalists are not professionally trained or accredited.

Most Important Desired Outcomes Over the Next 6-8 Months

19. (SBU) In order to address these areas of democratic deficit, a broad-based campaign to improve governance at all levels is vital. While most desired outcomes will likely be reflected only over the medium- to long-term, some short-term outcomes are both desirable and realistic. These include:

- Government action and statements against -- and a visible downward trend in -- vigilante killings;
- Government action and statements against -- and a visible decrease in -- killings of activists;
- Passage of a comprehensive counter-terrorism law in order to give the GRP more and better tools for dealing with terrorism through the legal system, rather than potentially doing so extrajudicially;
- Improved cooperation between police and prosecutors, reflected in particular through successful prosecutions of human traffickers;
- The appointments of a well-respected and qualified Supreme Court Chief Justice and Associate Justices, when these positions become vacant;
- The appointment of a well-respected and qualified Ombudsman to replace Sonny Marcelo, who is retiring in November;
- Continued progress toward peace in Mindanao, which will decrease the space that terrorists and other militants take advantage of;
- Improved capacity and capability of the Commission for Elections (COMELEC) through, among other things, a) appointments of well-respected and qualified Commissioners to existing and future vacancies; b) training of a cadre of COMELEC trainers; c) development of a long-term strategic plan; and d) training of COMELEC senior staff;
- A reduction in the length of the average trial; and
- Continued releases of detainees who have been in jail awaiting trial for periods longer than their possible prison sentences (see para 28-29).

Diplomatic and Programmatic Strategy

10. (U) Mission supports GRP efforts to pass and implement modern law enforcement legislation, and has worked to strengthen respect for the rule of law within government institutions and among public officials and to develop civilian law enforcement capacity, including police-prosecutorial cooperation. USAID conducts a number of projects aimed at improving governance and judicial reform. As a candidate in the Millennium Challenge Account's Threshold Country Program, the Philippines may receive MCA funding to strengthen anti-corruption efforts as a means of strengthening its fiscal capacity, improving governance and sustaining reforms. Mission will continue to emphasize the importance of serious and sustained reforms by the GRP. Numerous USG programs at both the local and national level promote transparency, popular participation, capacity building and equity, all key factors in the healthy functioning of democracy.

11. (SBU) Mission has repeatedly raised concerns in meetings with GRP officials about the killings of left-wing and other activists. The leftists need to see a place for them within the established democratic political system. If

those leftists who have opted to operate within the system find themselves targets for violence and assassination or deliberate political marginalization, the option of going underground and taking up arms will inevitably become more attractive. Mission will continue to reiterate to GRP officials, including at the highest levels, the need to protect activists of all political parties and groups that abide by the law and are non-violent, thereby protecting the democratic space and pluralism that a healthy democracy requires.

¶12. (SBU) Mission is strongly encouraging the passage of a comprehensive counter-terrorism law by the Philippine legislature. Such a legal tool, if implemented properly, would be an important contribution to the rule of law, giving the GRP more and better tools for dealing with terrorism through the legal system. It would reduce the temptation for members of the security forces to potentially act extrajudicially.

¶13. (SBU) Mission will also continue to raise concerns about vigilante killings, which local officials and political leaders at times appear to condone, and press for concrete GRP action in this area. The impunity with which these killings are taking place undermines GRP and USG efforts to strengthen the rule of law, and reduces Filipinos' expectations of the police and judicial branches.

¶14. (U) Mission continues to support talks between the GRP and the Moro Islamic Liberation Front in Mindanao for a negotiated political settlement. Mission strongly supports U.S. Institute of Peace efforts to facilitate talks between the two sides, including by engaging civil society. Mission also supports efforts to improve governance in the Autonomous Region in Muslim Mindanao (ARMM). Mission will urge the new ARMM government to improve local administration and tackle corruption.

¶15. (U) Democracy-Related Projects and Activities: Current and planned U.S.-funded or sponsored activities and projects during the next 6-8 months are listed below.

-- The Asia Foundation is supporting an effort by civil society organizations, launched in September, to conduct a "Supreme Court Appointments Watch." The Watch will deal with two vacancies this December, when Chief Justice Davide retires and an opening among the Associate Justices arises.

-- Two USAID projects -- Legal Accountability and Dispute Resolution (LADR) and Rule of Law Effectiveness (ROLE) -- started implementing complementary programs in October to increase the access of residents of the ARMM to the formal justice system. LADR is working to strengthen the Shari'a court system, while ROLE is working with the regular court system.

-- In December, The International Foundation for Election Systems (IFES) will start training a cadre of trainers within the Commission on Elections (COMELEC) to enable it to train others on voter education and general election administration functions.

-- IFES will in December begin assisting COMELEC's planning department to develop a long-term strategy, through the University of the Philippines-National Center for Public Administration and Governance (UP-NCPAG).

-- IFES will help COMELEC hold an election equipment vendor fair in February 2006 to introduce the latest voting, counting, and reporting technology to Philippine electoral stakeholders. Over the course of 2-3 days, COMELEC officials and other Government officials as well as members of Congress can learn about the types of technologies available and make a better informed decision on how to move ahead with the election mechanization program.

-- IFES will work with other groups associated with USAID's Transparent and Accountable Governance (TAG) and Legal Accountability and Dispute Resolution (LADR) projects to actively pursue a campaign to promote the most qualified candidates for COMELEC Commissioner positions. This could involve setting up a non-partisan "appointment watch" for COMELEC appointees. There is currently one vacancy, and two more COMELEC Commissioners will retire in February 2006. This activity will start shortly and conclude in March 2006.
-- In March 2006, IFES will implement a capacity-building program for COMELEC senior staff members in partnership with UP-NCPAG.

-- In March 2006, the NGO Concerned Citizens for ARMM Elections (CCAE) will start a program to increase awareness among ARMM voters of the importance of holding free and fair elections, funded by a sub-grant from IFES.

-- Libertas, an organization of lawyers, will, through a sub-grant in March 2006, assess and advocate reforms to the election complaints adjudication system.

-- Over the next 6 to 8 months, the Transparent and Accountable Governance (TAG) 2 project will promote good governance in 16 cities and 20 municipalities in the ARMM, in the areas of participatory planning and budgeting, public service excellence, ethics and accountability, and business processes review. The project goal is to get citizens to exercise more oversight over local government.

-- Within the next 6 months, Mission will organize a one-week seminar on improving police-prosecutor cooperation. The lack of such cooperation is a serious impediment to effective prosecution, and helps to undermine the average Filipino's confidence in the justice system and his/her expectations of justice. The seminar will target a select group of mid- to senior-level Philippine National Police (PNP) officers and Philippine Department of Justice (PDOJ) prosecutors.

¶16. (U) Grants: Small Democracy Grants and EAP/PD Exchange Alumni Grants have been awarded for relevant programs for a period of one year, starting September 28, 2005.

-- American Field Service Returnees Foundation: \$15,000 to bring high school students, a mix of Muslims from Mindanao, students from economically depressed regions, and indigenous persons (IPs) from Northern Luzon, to Manila for a training program in civic activism. (Note: Members of the country's indigenous minority have limited access to basic government services and are far less integrated into mainstream society than other minorities. See ref b. End Note.)

-- Consortium of Bangsamoro Civil Society: \$14,836 for seminars and training sessions to improve the ability of Muslim NGO activists in Mindanao to convey the message that participation in civil society and the democratic process is the best way to achieve political and economic progress.

-- Advocacy MindaNow Foundation: \$15,000 for producing radio public service messages advocating "unity in diversity" among Muslims, lumads (indigenous persons), and Christians in Mindanao.

-- Eskwelahan San Katawan Negros: \$14,798 to develop primary and secondary-level English-language instructional materials focusing on civic responsibility and involvement.

-- International Association of Hubert H. Humphrey Fellows Philippines (IAHHFP): \$10,190 for the project "Promoting Local Democracy", which will strengthen the democratic process in the Jalajala municipality through capacity-building partnerships between the municipality and IAHHFP members.

-- Women's Action Foundation, Inc.: \$15,000 to facilitate training programs for members of the Angeles City Women Coordinating Council on policy advocacy and financial sustainability.

¶17. (U) International Visitor and Speaker Programs: During the next 6-8 months, Mission is sponsoring a number of Filipino participants in International Visitor programs related to democracy, governance, and the rule of law.

-- Accountability in Government and Business (October 27 - November 17, 2005)

-- U.S. Judicial System (January 12 - February 2, 2006)

-- Investigative Journalism (March 16 - April 6, 2006)

-- NGOs and Civic Activism (March 23 - April 13, 2006)

¶18. (U) Mission also anticipates Speaker Programs on the topics of federalism and fighting corruption, in addition to a U.S. speaker on broadcast journalism/media training sometime in November.

Support from the Department or other parts of the USG

¶19. (SBU) During any high-level visits, officials can support these objectives by reiterating our concerns about the rule of law, i.e., vigilante killings and killings of leftist and other activists, and encourage serious efforts to reform the public sector and tackle corruption. Officials should also consider incorporating a public speaking component during their visits to the Philippines on topics related to democracy and the rule of law. In addition, support for a larger number of visiting public speakers on these topics would be welcome.

¶20. (U) The Department and other USG agencies working in the Philippines should reinforce and reiterate Mission's representations to the GRP on the importance of cracking down on human trafficking (see para 24).

¶21. (SBU) Potential Activities: Additional funding for some ongoing or planned activities (e.g., the seminar on

police-prosecutor cooperation) would help maximize the impact of our efforts. The following are other specific projects or activities that, if approved and funded, would support accomplishment of Mission's goals:

-- Building sustainable capacity within the Philippine National Police (PNP), so that it is governed and strengthened by modern legislation and procedures that conform to international conventions and standards, is a key goal. Mission is focused on strengthening the rule of law through support for the PNP's Transformation Program. Reestablishing the ICITAP police advisor position -- but converting this from a contract to a U.S. direct-hire Senior Law Enforcement Advisor (SLEA) position -- can be critical for institutionalizing this transformation effort. This will, however, require additional resources and the cooperation of INL and ICITAP.

-- With additional S/CT funding and the assistance of Department of Justice International Criminal Investigative Training Assistance Program (ICITAP), future seminars on police-prosecutor cooperation could target additional officers and prosecutors and thereby more widely spread the impact.

-- A study of political party financing in the Philippines, and alternative mechanisms used in other countries, conducted by USAID. This would be followed by a conference to present research findings and examine possible mechanisms that might dilute the current concentration of power in a few families in favor of newcomers and independents, obtain feedback and ideas from relevant audiences including Congress, civil society, and concerned citizens.

-- Assistance to Congress to improve legislative drafting. Justices regularly complain that laws are not well drafted and result in either many laws being set aside or inconsistent rulings by different judges. USAID can facilitate training of key staff members on technical aspects of legal training. This generally involves courses conducted at U.S. universities. USAID can also organize open forums to discuss ways in which other countries improve the quality of their laws, such as: opening proposed laws to public comment, peer review panels, outside advisors on legal drafting, and speedy approaches to evaluating and passing technical amendments.

-- Sponsoring the participation of COMELEC Commissioners in training conferences (e.g., Association of Asian Election Authorities) to broaden their understanding of their role and responsibilities.

-- An assessment of how to strengthen both civilian oversight of the military and linkages between civilians and the military. NDI provides these assessments for USAID.

-- Training seminars to educate jail guards on the rights of prisoners. This can be a weeklong program or more, held at different sites, including the Commission for Human Rights as a facilitator or trainer.

-- The Philippines is a candidate for the Millennium Challenge Account's Threshold Country Program. If GRP proposals to MCA have merit, MCA would provide funding for intensified anti-corruption efforts focused on the Finance Department and sub-agencies responsible for government tax and revenue collection as well as the Ombudsman's Office (responsible for investigating and prosecuting corruption by government officials) and others. If the GRP succeeds in these efforts to fight corruption and restore fiscal balance, the Philippines could compete for a much larger scale MCA program aimed at economic growth and development.

Major Impediments: Resource, Political, or Structural

122. (SBU) Accomplishing these outcomes will require more resources, better governance, broader economic development, a deeper commitment to pass and enforce required legislation, and greater capacity of law enforcement on the part of the GRP. Mission's actions and activities can reinforce and supplement the GRP's actions, but not compensate for the lack of GRP action on any one front. Encouraging public sector reform, political stability, improved peace and order, economic growth, and a free and responsible media are part and parcel of the process of deepening and maturing Philippine democracy and increasing popular participation in -- and ownership of -- that democracy. Improving the efficiency of the Philippine court system and reducing judicial corruption is a long-term process, as is PNP reform. In the context of corruption being a major impediment, the resignation of Ombudsman Sonny Marcelo (slated to take effect in November) is a major blow to GRP efforts to curb corruption in government.

123. (U) Resource constraints are an issue given the fiscal deficit. This is further exacerbated by widespread corruption that decreases the resources available for public services. Implementation of an Expanded Value Added Tax (currently being challenged in the Supreme Court) would significantly ease the GRP's fiscal crunch. The Philippines is also in the middle of a political crisis, currently reflected in a standoff between the Executive and the Senate over a recent Executive Order.

124. (SBU) The Philippines is on G/TIP's Tier 2 Watchlist for Trafficking in Persons. Without concrete and visible improvement in this area -- particularly in arrests and successful prosecutions -- the GRP could be downgraded to Tier 3 next year, resulting in sanctions that would affect most of our assistance programs in the Philippines. Mission has consistently and vigorously engaged and assisted the GRP on this issue; the burden is now on the GRP to take appropriate steps, including convictions of traffickers, to show progress in curbing and eliminating this inhumane practice. Inaction on the GRP's part could potentially undercut all of the USG's good efforts and intentions in the area of democracy promotion.

Significant Influences On Democratization Efforts

125. (U) Our U.K., Australian, and U.N. counterparts have expressed interest in supporting PNP reform and improving cooperation between police and prosecutors. The UNDP supports a broad effort to improve governance in the Philippines (through support for COMELEC, the Office of the Ombudsman, etc.) and to empower indigenous peoples.

126. (U) There are many civil society organizations that can exert significant positive influence on both democratization efforts and the host government.

-- Survey or polling organizations like the Social Weather Stations and Asia Pulse provide timely information to both the government and the public on important issues like governance, corruption, public satisfaction levels and preferences, etc. and informs decision-making. At the local level there are also smaller polling centers that provide customer feedback to local government units (e.g. The Holy Name University in Bohol conducts an annual Bohol Poll).

-- Civil society organizations engaged in advocacy enhance the ability of the public to participate in important policy discussions. Many important laws in the Philippines were passed with the active participation of civil society organizations (e.g. Fisheries Reform Act, Urban Development and Housing Act, Indigenous People's Rights Act, etc.). Civil society organizations like the Concerned Citizens of Abra for Good Governance and the Transparency and Accountability Network also exert pressure on government to be transparent and accountable to the people.

-- Associations of local government units like the League of Municipalities, League of Provinces, and the League of Cities continue to be the voice of local democracy and decentralization in the Philippines.

-- Media organizations like the Philippine Center for Investigative Journalism (PCIJ) and the Center for Media Freedom and Responsibility continue to keep government on its toes by acting as watchdogs and exposing government anomalies.

Areas of Democracy Promotion Supported by the GRP

127. (U) Host country involvement in international or regional organizations that promote democracy include membership in the International Union of Parliamentarians, Association of Asian Election Authorities, World Jurist Association, and the Global Organization of Parliamentarians Against Corruption. The Philippines will be hosting the International Judicial Reform Conference in November.

128. (U) The Court of Appeals Mediation Project, supported by USAID, was launched on August 31. A special initiative under the Supreme Court's Action Program for Judicial Reform (APJR), it is aimed at increasing the efficiency and effectiveness of the administration of justice through the use of alternative dispute mechanisms and the provision of affordable judicial services.

129. (U) The Supreme Court is continuing efforts to ensure speedier trials and sanction judicial malfeasance, and is in the midst of a 5-year program to increase judicial branch efficiency and raise public confidence in the judiciary. Lengthy pretrial detention is a serious problem, but the courts have been active in releasing those detainees during

the past two years who have been in jail longer than the possible prison term they would have served if convicted.

130. (U) The recently established regional consultative bodies for indigenous peoples could play a significant "pressure valve" role in representing and advocating their concerns at the local and national levels. The National Commission for Indigenous Persons (NCIP) expects to set up a similar national consultative body in the near future. Further engagement of IPs in the local and national political processes -- negligible at this point -- could help raise their status.

131. (U) In general, the GRP's policies do not undermine or run contrary to the USG's democracy promotion policy.

The Consequences of Pursuing This Agenda

132. (U) The Philippines has a generally positive environment for democracy and rule of law promotion efforts, with GRP officials receptive to assistance and suggestions. Conducted openly and stated plainly, our efforts should generate no complaints or raise anyone's hackles, especially since they are consistent with or similar to past efforts and are generally perceived as beneficial to the Philippines and supportive of democratic traditions here. In the past, criticism from Filipinos has generally come when the U.S. is perceived or alleged to be acting behind the scenes to influence the political process in the Philippines, or from "nationalists" opposed to U.S. military bases or our military training presence in the country -- or from oligarchs who perceive threats to their interests. As a democratic country with an active civil society, the Philippines has no obvious enemies of honestly-advocated democracy promotion efforts, except for leftists and Muslims linked with extremist activities.

JONES